

In the Supreme Court of the United States.

OCTOBER TERM, 1905.

LEWIS M. ALEXANDER, APPELLANT,
v.
THE UNITED STATES. } No. 381.

GEORGE A. WHITING, APPELLANT,
v.
THE UNITED STATES. } No. 382.

WILLIAM Z. STUART, APPELLANT,
v.
THE UNITED STATES. } No. 383.

GENERAL PAPER COMPANY, APPELLANT,
v.
THE UNITED STATES. } No. 384.

E. T. HARMON AND GENERAL PAPER
Company, appellants,
v.
THE UNITED STATES. } No. 385.

MOTION TO ADVANCE.

The Solicitor-General, on behalf of the United States, respectfully moves the court to advance the above-entitled causes on the docket, and to assign them for hearing at as early a date as the convenience

of the court will permit, stating as the grounds of said motion the following facts:

On December 28, 1904, the United States, proceeding under and pursuant to the act of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," filed its petition in the United States Circuit Court for the District of Minnesota against the General Paper Company and twenty-three other corporations defendant. The petition in substance avers that the defendants other than the General Paper Company, being practically all of the manufacturers of news print, manila, and fiber papers in the Middle and Western States, had combined and conspired with one another to restrain interstate trade and commerce in the commodities so manufactured by them; and that such combination and conspiracy had been effectuated and carried out by means of the organization of the defendant General Paper Company to act as the exclusive selling agent for each and every of the other defendants, with full power and authority to fix the prices, terms, and conditions for the sale of their joint product. The answers interposed in the suit amounted to a general denial of all of the essential averments of fact.

After issue was joined, an examiner was appointed by the United States Circuit Court for the District of Minnesota, with authority to take testimony both within and without the district. At the hearing before the examiner, which was begun in the city of Milwaukee and State of Wisconsin on the 16th day of May,

1905, the petitioner called for examination the following witnesses, who appeared pursuant to subpoenas *duces tecum* issued upon the order of the United States Circuit Court for the Eastern District of Wisconsin:

L. M. Alexander, secretary and treasurer of the General Paper Company;

George A. Whiting, first vice-president of the General Paper Company;

W. Z. Stuart, general sales manager of the General Paper Company;

E. T. Harmon, president of the Grand Rapids Pulp and Paper Company.

These witnesses, when examined by counsel for the United States, refused to give or produce certain evidence concerning the combination and conspiracy averred in the petition, asserting as a ground for such refusal that the evidence called for was incompetent and immaterial to the issues. Subsequently, when ordered by the United States Circuit Court for the Eastern District of Wisconsin to show cause why they should not testify and furnish the evidence called for, the witnesses filed returns in which they claimed personal privileges under the fourth and fifth amendments to the Constitution of the United States not to disclose the matters as to which they were interrogated, contending that the compelling of such disclosure would amount to an unreasonable search and seizure within the meaning of the fourth amendment, and would be requiring them to give evidence against themselves within the meaning of the fifth amendment. Furthermore, at the same time, the defendant General

Paper Company filed its return, making similar contentions on its own behalf, namely, that to compel it through its proper officers to make the disclosures called for would be in violation of its rights under either or both of said amendments. The United States Circuit Court for the Eastern District of Wisconsin ordered the witnesses to answer each and every of the questions involved, and to produce all of the books and papers called for. From the judgments thus entered appeals have been taken to this court, the appellants contending that, their claims of personal privilege having been overruled by the only court of first instance which had jurisdiction to entertain them, such judgments constituted final determinations of the questions raised.

The testimony in the principal suit can not, with due and proper regard to the interests of the United States, be brought to a close and the cause to a hearing, until the questions of privilege raised by the said witnesses and the said defendant corporation, the General Paper Company, have been finally determined by this court. Inasmuch as these questions, as also the issues in the principal suit, are matters of great and general public interest, in which the United States is directly concerned, it is respectfully submitted that the above-entitled causes should be advanced and as speedily determined as the business of this court will reasonably permit.

HENRY M. HOYT,
Solicitor-General.